IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15727 of 2004

Between:

Prahlad Rai Kedia S/o Ram Bhagatji
Shop No. 364 A & B, Saikrupa Market, Malkpet, Hyderabad

..... PETITIONER

AND

1 The Circle Inspector, Choutuppal Police, Station, Nalgonda District.
2 The Sub-Inspector of Police, Pochampalli Police Station, Nalgonda District.
3 Satteiah Reddy S/o Yadagiri Reddy, R/o Meharnagar village, Bhudan Pochampalli Mandal, Nalgonda District.
4 Ramchander, S/o Satteiah Reddy, R/o Meharnagar village, Bhudan Pochampalli Mandal, Nalgonda District.
5 Venkatesh S/o Satteiah Reddy, R/o Meharnagar village, Bhudan Pochampalli Mandal, Nalgonda District.
6 Eshakar S/o --, H. No. 4-3-2 Sikker House, Hayatnagar, Ranga Reddy District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring he inaction of the respondents particularly 1st and 2nd respondents in registering case against respondent NO.3 to 6 as per the complaint dated 07-08-2004 and 26-08-2004 given by the petitioner herein though the petitioner sustained so much of damage to the property besides mental agony and harassment as illegal, unjust arbitrary and against statutory provisions and consequently direct the respondents NO.1 and 2 to register case under appropriate provisions of law against respondent No.3 to 6 basing on the compliant given by the petitioner dated 07-08-2004 and 26-08-2004.

Counsel for the Petitioner: MR.L.J.VEERA REDDY

Counsel for Respondents 1 & 2: GP FOR HOME

Counsel for Respondents 3 to 6: --

The Court at the stage of admission made the following Order:

The petitioner seeks a Writ of *Mandamus* declaring the in -action on the part of respondents 1 and 2 in registering a case against respondents 3 to 6 as per the complaints dated 07-08-2004, 26-08-2004 given by the petitioner, as arbitrary and illegal.

I have heard the learned counsel for the petitioner and the learned Government Pleader appearing for respondents 1 and 2.

The case of the petitioner is that he lodged complaints with respondents 1 and 2 on 07-08-2004 and 26-08-2004 respectively alleging that respondents 3 to 6 have committed an offence punishable under Section 447 and 426 IPC i.e. criminal trespass and mischief. The grievance of the petitioner is that though the said complaints have been received by respondents 1 and 2, they failed to take any further steps. Hence, this writ petition.

In the counter-affidavit filed on behalf of respondents 1 and 2, the fact that such complaints have been received is admitted. However, it is stated that they made a G.D. entry and during the course of enquiry, it is found that there are civil disputes between the petitioner and the respondents 3 to 6 and therefore, the petitioner has been making false complaints. Hence, no further steps have been taken and the petitioner was advised to approach the competent Civil Court in the matter.

It is to be noted that while considering an identical issue, the Apex Court in MOHINDRA vs. STATE OF PUNJAB AND OTHERS, held that when a complaint of cognizable offence has been reported, it is not open to the Police to say that they have enquired into the offence without registration of the F.I.R.

In the case on hand, since there is no dispute about the receipt of the complaint, I am of the view that the respondents are not justified in stating that they have enquired into the case even without registering any F.I.R.

Accordingly, the writ petition is disposed of with a direction to respondents 1 and 2 to

register a case on the basis of the complaints received from the petitioner within one week from the date of receipt of this order and thereafter, the matter shall be duly investigated into and appropriate action be taken in accordance with law. No costs.

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05-10-2004

Note: Issue C.C. by one week.

(B/o)

Kdl

To

1 The Circle Inspector, Choutuppal Police, Station, Nalgonda District.
2 The Sub-Inspector of Police, Pochampalli Police Station, Nalgonda District.

3 Two C.Cs. to the Government Pleader for Home, High Court Buildings, A.P., Hyderabad, (OUT).

4 Two C.D. Copies.